

## Evaluatie opheffing bordeelverbod

Gemeentelijk beleid; English summary and conclusions

Amsterdam, 18 augustus 2006

Sander Flight  
Paul Hulshof  
Paul van Soomeren  
Peter Soorsma  
(DSP-groep)

Met medewerking van:  
NetQuestionnaires (webenquête)

In opdracht van:  
WODC

© WODC, 2006

## English summary and conclusions

The Dutch law prohibiting brothels was abolished in October 2000. In brief, the objective of this change in law was to manage and regulate the exploitation of prostitutes and to allow punishable offences to be better tackled. Forced prostitution, the trading of people, prostitution by minors and marginal criminal phenomena all needed to be addressed. The change in the law also needed to lead to an improvement in the position of prostitutes. To ensure these objectives were achieved, all local authorities (city and town councils) in the Netherlands were empowered to establish a prostitution policy, to set this into legislation and to enforce the rules arising from it.

### Study design

The first evaluation of the effects of the change in law was carried out a year after the abolition.<sup>1</sup> Now, five years later, it is time for a second large scale evaluation. This evaluation consists of three separate studies:

- illegality in the branch;
- the social position of prostitutes;
- local authority policy.

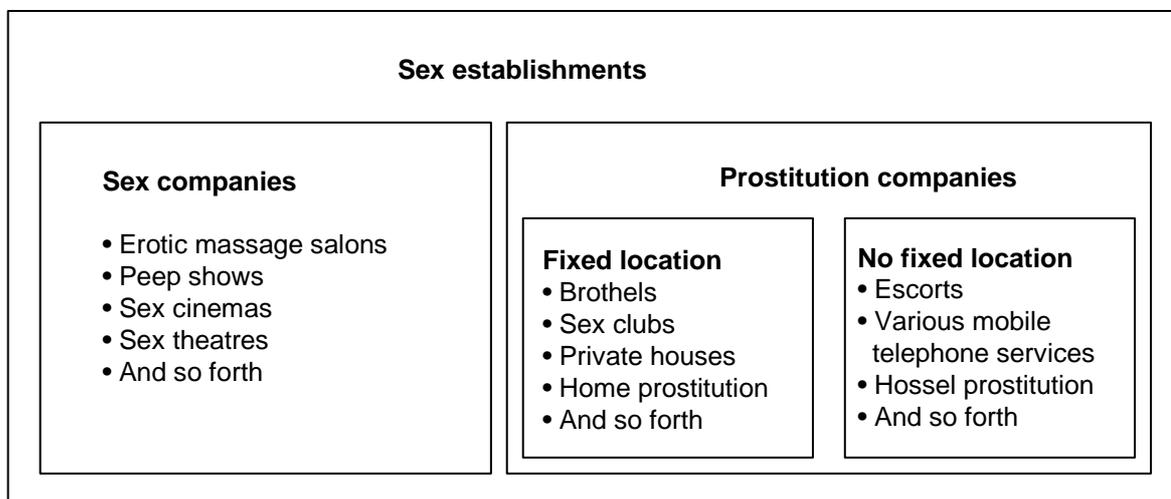
The report you are now reading is concerned with the study of local authority policy. It is in particular concerned with how local authorities have taken up their responsibilities five years after the change in law and what form of prostitution policy they have developed.

All Dutch local authorities were requested to fill in a questionnaire that was sent to them via the internet. There was a high response to the request: the questionnaire was completed by no less than 385 of the 456 authorities (84%). Furthermore, additional research was undertaken in six cities in order to give the national results more depth. Discussions were held with representatives from the local authorities, police, businesses, employees and other parties such as the fire service, municipal health service and tax authorities. A description of research methods used in this study is included in the appendices of this report.

Note 1 SGBO (the research office of the Association of Netherlands Municipalities) undertook a study of all local authorities: A.J.H. Smallegenbroek and E.C.M. Smits, *Gemeentelijk prostitutiebeleid na opheffing van het algemeen bordeelverbod; inventarisatie van de stand van zaken*, Den Haag, 2001.  
Furthermore, the WODC (Scientific Research and Documentation Centre) undertook a co-ordinated study in 2002: A. Daalder, *Het bordeelverbod opgeheven; prostitutie in 2000-2001*, Den Haag, WODC/Ministerie van Justitie, 2002.

## Categorization of the branch

In a study such as this, it is important to clearly define the different sorts of companies that are active in the sector. The following categorization has been developed for this study.



All companies that are relevant to this study fall under the term 'sex establishments'. These sex establishments are divided into two sorts: sex companies (including sex cinemas, sex theatres, peep shows, erotic massage salons) and prostitution companies. Prostitution companies are subsequently categorized as fixed location or no fixed location companies. 'Hoesel prostitution' is a form of street prostitution where customers are solicited by a middle-man who directs the customer to the prostitute.

No one categorization is perfect because some companies are difficult to categorize. The best example of this is erotic massage salons, where prostitution ('intimate sex') also sometimes applies. In this report, mention is given wherever this categorization may present a problem or a lack of clarity.

## Summary

The central question of this study is:

*“What is the status of prostitution in the Netherlands regarding local authority policy, inspection, enforcement and compliance, and what are the results of the abolition of the general ban on brothels?”*

### *Status – local authority policy*

Approximately two thirds of the authorities that responded (68%) in this study have formally established a prostitution policy. Those authorities without a prostitution policy were almost unanimous in their reason: the non-existence of prostitution in their municipality. Of those that responded, there are 28 local authorities in total where the establishment of a sex establishment is formally, or in practical terms, not possible. Most authorities choose to regulate sex establishments by means of a licensing system and by adapting their local bylaws (*Algemene Plaatselijke Verordening*, or APV). Half of the authorities with a prostitution policy choose to set a local maxi-

mum: the number of sex establishments that are allowed is explicitly stated. Local authority prostitution policy is mainly focussed on sex establishments with a fixed location, such as (window) brothels, sex clubs and sex cinemas. In most authorities there are no licensing systems for escort companies and home prostitution.

#### *Status - inspection, enforcement and compliance*

Inspection by local authorities consists predominantly of checking licence requirements. The police are involved in these checks in almost all municipalities. In 2001 there was a backlog in issuing licences - this has since been eliminated. The majority of licence applications are honoured and on average it takes three months to issue a licence. According to the local authorities, the rules are known and are reasonably clear. An estimated one third of all fixed location sex establishments with a licence have received a sanction in the last five years, mostly in the form of a warning. The most important reason for receiving a sanction is the presence of prostitutes without a valid residence and/or work permit. Sanctions are also regularly issued due to sex establishments not complying with the codes of conduct or because of conflicting with planning regulations.

#### *Results of the abolition of the ban on brothels*

The number of licensed sex establishments in the Netherlands is estimated to have decreased by 17% to about 1270 establishments between 2000 and 2006. According to the local authorities, operators and prostitutes, this is not as a result of the abolition of the ban on brothels. They believe that the worsening economic situation, the introduction of the Euro, the growth of mobile telephony and internet and the increased number of escort services, mobile telephone sex companies and home prostitution have had more of an influence. There is a strong suspicion that many prostitutes without valid papers have gone 'underground' since the abolition of the ban on brothels. Until now, local authorities have mostly concentrated on fixed location companies that fulfil a clear sexual purpose and less on no fixed location companies (escort companies) or companies where it is not clear whether sexual acts are performed (massage salons). A section of the operators with whom we spoke is of the opinion that infringements that are relatively easy to detect, such as underage prostitution and prostitution without valid papers, are tackled more than the relatively difficult infringements such as forced prostitution. The number of local authorities also wanting to regulate escort agencies and home prostitution is increasing.

### **1 What is local authority prostitution policy, formally as well as in practice? What are the peripheral policies? What is local authority policy regarding the human trafficking? Is there room for new companies?**

- The majority (68%) of the local authorities that responded have developed a formal policy concerning the provision of sexual services and have set this down in writing. The remaining authorities either have a policy but have not set it down in writing (16%) or do not have a policy at all (16%).
- Most policies were developed before 1 October 2000.
- Half of the authorities that responded adopt a local maximum policy for the number of sex establishments. The rest often choose a regional maximum policy (11%) or a *status quo* policy (6%).

- Seven percent of the authorities that responded have an actual zero policy and a further five percent operate a formal zero policy. Based on this study no indication can be given as to how far the zero policy is founded on moral/ethical grounds or, for example, on development/zoning plans.
- Of the authorities that responded, in total there are 28 where the setting up of a sex establishment is either formally or in practical terms not possible.
- Almost all local authorities that responded (98%) choose to regulate prostitution by adapting their local bylaw (APV).
- Two out of three (67%) of the authorities that responded have included a regulation for sex establishments in one or more development plans.
- It appears that half of the authorities that responded haven't set up a policy to take account of escort and home prostitution. The authorities that do have a policy often choose a local maximum policy or a zero policy.
- A minority of the authorities with a prostitution policy take account of prevention (40%) or care (23%) in their policy. The health and working conditions of prostitutes receive attention in at least seventy percent of authorities with a prostitution policy.
- Half of the participating authorities with a prostitution policy give consideration to combating human trafficking (49%). A small minority (6%), often the large municipalities, offer a withdrawal program to prostitutes.
- There is room for new sex establishments in the Netherlands: 250 licences are currently available for different sorts of companies.

## **2 Are local authorities up to date on the form of the prostitution branch in their area? What form does the branch take?**

- Almost all authorities that responded (95%) say that they know exactly how many licensed sex establishments there are.
- There are an estimated 1270 licensed sex establishments in total in the Netherlands. The most common forms are (window) brothels, followed by sex clubs and private houses.
- A comparison of the number of licensed sex establishments between 2000 and 2006 indicates an estimated decrease of 17%.
- It is unusual to have a sex establishment located in municipalities with less than 40 000 residents (31% have sex establishments). In large municipalities this is the other way around: there are almost always sex establishments in municipalities with more than 100 000 residents (96% have sex establishments).
- The province with most local authorities with sex establishments is Drenthe (73% of local authorities have at least one sex establishment). The provinces of Utrecht (23%) and Gelderland (29%) have the least authorities with sex establishments. The border and Northern provinces have a relatively high number of cities with sex establishments.
- Half (52%) of the local authorities that responded say that they know exactly how many non-licensed sex establishments there are, mainly escort services and home prostitution. The other authorities do not know. A reliable estimate of the number of non-licensed sex establishments can therefore not be given.

### **3 What is the role of the various local authority services? What other parties are involved?**

- The office for public order and safety is involved in the implementation of the prostitution policy in the majority of local authorities that responded (94%). The spatial planning department is also often involved (73%).
- In most cases (59%), the local authorities direct prostitution policy. This is done by the police in about a quarter of the municipalities (28%).
- The tax authority is involved in the implementation of prostitution policy in one out of five local authorities (20%), and in almost one third of cases they also conduct inspections (30%).

### **4 What is the local authority inspection focussed on, what form does the inspection take and what is the state of enforcement? What is the role of the police?**

- The local authority inspection consists, in particular, of carrying out inspections of licence requirements.
- In by far away the majority of cases, the police are involved with inspections (96%). Mostly the local authority selects which companies have to be inspected, but in a quarter of cases the police determine this themselves.
- The Municipal Health Service (77%), the Fire Service (68%) and the Building and Housing Inspectorate (63%) also undertake inspections in many local authorities, each with their own objective.
- An enforcement arrangement, in which the local authority, police and Department of Public Prosecution (*Openbaar Ministerie*, OM) make agreements regarding the enforcement of the branch, has been established in just over half of the local authorities that responded (55%).
- The backlog that was determined in 2001 for the issuing of licences (half of all licence applications were pending) has since been eliminated.
- It takes on average three months for a licence to be issued, although in some authorities it takes longer than six months.
- Licence applications are approved in the great majority of cases (87%).
- The Public Administration (Probity in Decision-making) Act is applied by a number of local authorities while issuing or extending licences. The operators with whom we spoke are reasonably positive: it is good to make the industry cleaner, but administration requirements are high and some raise question marks about objectivity.

### **5 What are the results of administrative inspections and to what kind of administrative interventions in the prostitution branch have these inspections lead?**

- An estimated one third of all fixed location sex establishments have received a sanction in the last five years.
- In the vast majority of cases an infringement leads to a warning: 78 percent of all sanctions are warnings.
- Thirteen percent of sanctions relate to the (temporary) closure of the company.
- Licences have been revoked in seven percent of cases.
- A penal sum is the least used sanction: this is chosen in two percent of the infringements.

- The most important reason for issuing a sanction is the presence of prostitutes without valid residence and/or work permits. This was the reason for a sanction in one third of all cases. Sanctions are also regularly issued because sex establishments do not comply with the code of conduct or because of opposition to planning regulations. These two issues each amount to approximately one fifth of all cases as reasons for a sanction.

## **6 What are the (side) effects of enforcement by local authorities?**

- There is a strong suspicion that many prostitutes without valid papers have gone 'underground'. These are particularly prostitutes who, at the time of the change in law, had already built up their own clientele. It is not clear if many home based prostitutes<sup>2</sup> are included in the non-licensed section.
- Fixed location companies are inspected more than companies without a fixed location. The licensed sector sometimes speak of 'unfair competition' because in their view they are more frequently and more strictly inspected than non-licensed companies.
- Many local authorities have difficulty in establishing the sexual function of erotic massage salons. There are also sex establishments where forms of prostitution take place, such as gay sauna's, couples' clubs and some sex clubs where male prostitutes also work, that do not lend themselves to a standard approach.
- The licensed section of the branch is slowly developing itself into a normal business sector and, according to the local authorities<sup>3</sup>, it appears that prostitutes have a better position than in the past.

## **7 What is the status of compliance?**

- According to most local authorities, voluntary compliance of the rules by the branch is good to reasonable. The rules are known, but could be somewhat clearer.
- Stimulating compliance by making the results of inspections public (naming and shaming) is rarely used by local authorities: only five authorities make results public.

## **8 What are the bottlenecks in the implementation of prostitution policy and where do the causes of these bottlenecks lie (legal instruments, administrative support, staffing etc.)?**

- It is difficult for an integral approach to take off in authorities where no political priority is given to prostitution.
- The number of authorities wishing to regulate not only the traditional (fixed location) prostitution companies but also escort and home prostitution is increasing.

Note 2 Home based prostitutes is the general term given to this group, but this does not mean that these prostitutes only work at home; they may also work in a hotel or elsewhere.

Note 3 The other two studies that focus on labour relationships and illegality consider the position of prostitutes more than this study does.

- According to several licensed operators, stricter inspections result in certain forms of prostitution going yet further 'underground'.
- In the view of a number of operators of licensed sex establishments, infringements that are easier to detect, such as under age prostitution and prostitution by women without work permits, are tackled more than the difficult infringements such as forced prostitution.